



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

EC-2002-030  
II-A-026

JUL 30 1997

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

Mr. Karl Hehl, President  
Carriage Fuel & Supply, Inc.  
(Division of Southern States)  
216 West Franklin Street  
P.O. Box 128  
Warrenton, N.C. 27587

Re: File No. AED/MSEB - 4724

NOTICE OF VIOLATION OF THE CLEAN AIR ACT AND  
REQUEST FOR INFORMATION PURSUANT TO SECTION 114 OF THE  
CLEAN AIR ACT

Dear Mr. Hehl:

On December 4, 1996, authorized representatives of the United States Environmental Protection Agency ("EPA") inspected Carriage Fuel & Supply, Inc. ("Carriage"), a division of Southern States, located at 216 West Franklin Street, Warrenton, N.C. The inspection was conducted to determine compliance with § 211 of the Clean Air Act ("Act"), 42 U.S.C. §§ 7545, and the desulfurization regulations issued thereunder (40 C.F.R. Part 80). The misfueling provision of the Act, § 211(g), provides that no person shall introduce or cause or allow the introduction into any motor vehicle of diesel fuel which such person knows or should know contains a concentration of sulfur in excess of 0.05 percent (by weight). In addition, the regulations prohibit any person from dispensing, selling, supplying, offering for sale or supply, transporting, or introducing into commerce diesel fuel for use in motor vehicles unless the diesel fuel has a sulfur percentage, by weight, no greater than 0.05 percent. Where inappropriate fuels are used in internal combustion engines, the emissions of harmful gases can increase significantly. Notwithstanding improvements in vehicle emission controls, emissions from motor vehicles continue to make up a very large portion of all air pollution. Congress has established a program of improvement and regulation of fuels to protect our air quality from unnecessary pollution associated with the misfueling of vehicles. This law also subjects violators to a maximum civil penalty of \$25,000 per day for each violation in addition to recovery of the amount of the economic benefit or savings resulting from the violation.

During the inspection, samples of diesel fuel were taken from Carriage's storage tank and from the propulsion tanks of two (2) of Carriage's trucks. The diesel fuel found in the storage tank had a sulfur content of .0558 wt. percent; Truck # 1, license # CZ 5740, had a sulfur content of .0561; and Truck #2, license # CZ5739, had a sulfur content of 0.0564 wt. percent. As a result of the inspection, EPA has determined that during August and September 1996 on at least eleven (11) separate occasions Carriage used the storage tank to supply gasoline to retail outlets and to introduce or cause or allow the introduction of high sulfur diesel fuel into the two motor vehicles described above. Therefore, Carriage is liable for at least thirteen (13) violations of § 211(g) of the Act, 42 U.S.C. § 7545(g) and/or the desulfurization regulations 40 C.F.R. § 80.29 based on § 80.30(d), violations detected at an unbranded distributor facility.

Sections 211 and 205 of the Act, 42 U.S.C. §§ 7545 and 7524, authorize the Administrator of EPA to assess a civil penalty of up to \$25,000 for every day of each violation and the economic benefit or savings resulting from the violations. In determining the appropriate penalty for the noticed violations, we consider the gravity of the violations, the economic benefit or savings (if any) resulting from the violations, the size of your business, your history of compliance with the Clean Air Act, actions taken by you to remedy the violations and to prevent recurrence of further violations, the effect of the penalty on your ability to continue in business and such other matters as justice may require.

We believe it is in your interest to demonstrate that remission or compromise of the penalty amount is appropriate. However, in order to assist us in developing the appropriate penalty and settlement positions, we have prepared the enclosed Request for Information. Under the law you are required to submit this information or be subject to additional penalties and other sanctions above and beyond those assessed for the fuel violations identified in this Notice. In addition, if you do not submit this information in a timely manner, we will be forced to make assumptions with regard to the factors to consider in determining the appropriate amount of civil penalty which may not be in your interest or whether remission or compromise of the civil penalty amount is appropriate.

We encourage early settlement of such matters. The settlement process provides substantial flexibility for reducing the proposed penalty, particularly if the alleged violations were corrected promptly. If we cannot settle this matter promptly, we reserve the right to file an administrative complaint or refer this matter to the United States Department of Justice with a recommendation to file a civil complaint in federal district court.

The EPA attorney designated below has been assigned to this case. All information should be sent to the case attorney. Please contact this attorney regarding the Notice of Violation and Request for Information.

Jocelyn L. Adair, Attorney  
U.S. Environmental Protection Agency  
Mobile Sources Enforcement Branch (2242-A)  
Air Enforcement Division  
401 M Street, S.W.  
Washington, D.C. 20460  
Phone number: (202) 564-1011

Please let me once again emphasize that while we take our obligation to enforce these requirements seriously, we will make every effort to reach an equitable settlement in this matter.

Sincerely yours,

*Bruce C. Buckheit*

Bruce C. Buckheit, Director  
Air Enforcement Division

Enclosure

Enclosure

REQUEST FOR INFORMATION PURSUANT TO SECTION 114 OF THE  
CLEAN AIR ACT, 42 U.S.C. § 7414

Re: File No. AED/MSEB - 4724

Section 114(a) of the Act, 42 U.S.C. § 7414(a), provides that " the Administrator may require any person.... who is subject to any requirement of this Act ...to make such reports ... and provide such other information, as the Administrator may reasonably require." Respondent is subject to the requirements and prohibitions of the diesel fuel desulfurization requirements of section 211(g) and (i) of the Act, 42 U.S.C. § 7545(g) and (i) and thereby is also subject to the informational requirements of section 114(a) of the Act.

Pursuant to the authority contained in section 114 of the Act, 42 U.S.C. § 7414, provide the following information for Southern States and Carriage Fuel & Supply, Inc. ("Carriage") and its subsidiaries, parents, affiliates or related companies:

1. We are assuming that Carriage and its affiliates and subsidiaries income before expenses or deductions is over \$10 Million. If you do not agree, submit your financial statements for the prior three fiscal years and this year current to date including but not limited to balance sheets, profit and loss statements, statements of changes in position, and federal income tax returns.

2. Provide a comprehensive description of Carriage and its affiliates and subsidiaries, including its business operations, corporate structure, officers, and board of directors.

3. Provide a complete list and full description of all vehicles that are owned, leased, operated, or controlled by Carriage and/or its marketing subsidiaries. The description of the vehicle should include the manufacturer's vehicle identification number ("VIN"), the make and model year of vehicle, license plate number, any company identification number, and the type of fuel or gasoline used to operate the vehicle.

4. For the period, August 1996 to the present time, provide the following information:

(a) The name and address of all customers to whom you distribute gasoline and/or diesel fuel.

(b) Provide bills of lading and/or product transfer documents that show the following: (i) the name and address of the transferor; (ii) the name and address of the transferee; (iii) the volume of gasoline which is being transferred; (iv) the location of the gasoline at the time of the transfer; (v) the date of the transfer; and (vi) the identification of the gasoline and/or diesel fuel.

(c) Provide a complete description of the Carriage facility located at 216 West Franklin Street, Warrenton, N.C, including, an identification of each tank and its use.

(d) For any motor vehicle that used diesel fuel, provide receipts of purchase of fuel.

(e) Provide documents or other evidence sufficient to demonstrate that you have and actually utilize a quality assurance program, including any tests results of gasoline or diesel fuel sold or supplied by Carriage from its tanks located at the West Franklin Street terminal.

5. Documents demonstrating Respondent's safeguards and management oversight to prevent high sulfur diesel fuel from being used in motor vehicles.

6. Documents demonstrating what actions were taken to remedy the violations, including the disposition of non-complying gasoline, and to ensure that similar types of violations are less apt to occur in the future.

7. Any and all other information indicating that remission or compromise of the civil penalty is appropriate. You may elect to provide a statement of the cause of the violation, if known, and any mitigating factors you desire to bring to our attention.

The response to this request shall be full, complete, and to the best of your knowledge. A reply which is false, misleading, or made without regard to its veracity is, in our judgment, equivalent to a refusal to submit information. In order for us to proceed expeditiously with our enforcement docket, your response must be submitted within fifteen days after the date of this letter. If you encounter difficulty in responding to this

request within this time frame, please contact the case attorney identified herein. Absent a written extension of the required response date, your failure to respond by the date set forth may lead to immediate enforcement action and a lost opportunity for early settlement of this matter. EPA's enforcement options include the issuance of a compliance order by the Administrator under section 113(a) of the Act, or the filing of a civil action seeking a permanent or temporary injunction, or a civil penalty of not more than \$25,000 per day of violation, or both, under section 113(b) of the Act. Please be aware that a knowing or willful submission of false, fictitious, or fraudulent statements or representations may subject you to possible criminal liability for filing false statements.

Pursuant to EPA regulations appearing at 40 C.F.R. Part 2, you are entitled to assert a confidentiality claim covering any part of the submitted information. If you do not assert such a claim, the submitted information may be available to the public without further notice. Information subject to a business confidentiality claim may be made available to the public only to the extent set forth in the above cited regulations.